

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENT CHRISTOPHER WATSON,

Defendant.

MEMORANDUM DECISION AND
ORDER GRANTING THE UNITED
STATES' MOTION TO VACATE
ORDER GRANTING MOTION FOR
RETURN OF PROPERTY

Case No. 1:04-CR-4 TS

This matter is before the Court on the United States' (the government) Motion to Vacate Order Granting Motion for Return of Property, filed April 1, 2005. Defendant Kent Christopher Watson (Defendant) filed his response on April 6, 2005, and the government filed its reply on April 8, 2005. The Court, having reviewed the pleadings and the file, and being otherwise fully informed, will grant the government's motion vacate its Order Returning Property, as is set forth more fully below.

A magistrate Complaint was filed against Defendant on December 24, 2003, alleging that Defendant was in possession of child pornography. Defendant was subsequently indicted on the same charge on January 7, 2004.

On March 8, 2005, the government filed a Motion for Leave of Court to File a Dismissal of the Indictment, which was granted on March 10, 2005.¹ In the time between the filing of the government's motion, and the Court's granting of it, Defendant filed a Motion to Return Property, on March 9, 2005, which the Court granted on March 11, 2005.² On April 1, 2005, the government filed the instant motion.

The Court finds that it lacked proper jurisdiction to enter its Order Returning Property, as the Indictment has already been dismissed by Court order on March 11, 2005. The Court has also considered the representation that another judicial forum currently has jurisdiction over the evidence at issue in this case and, further, Defendant's status as a convicted felon.

Based upon the above, it is hereby

ORDERED that the government's Motion to Vacate Order Granting Motion for Return of Property is GRANTED; it is further

¹ The Order was docketed on March 11, 2005.

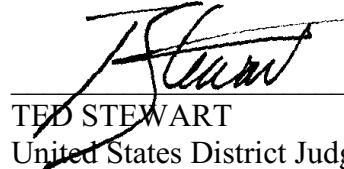
² The docket shows the Court's Order Returning Property as being entered on March 14, 2005, and being signed by the Court on March 11, 2005.

ORDERED that the Order Returning Property is VACATED.

SO ORDERED.

DATED May 23, 2005.

BY THE COURT:



TED STEWART
United States District Judge